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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER

SWERDLOW, DANIEL

ART UNIT

PAPER NUMBER

2644

DATE MAILED: 04/26/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/688,056

Applicant(s)

KNOX, LEE B.

Examiner

Daniel Swerdlow

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 October 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☒ Claim(s) 7 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION***Claim Objections***

1. Claim 7 is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. Claim 7 claims the method of Claim 4 wherein potential successes are not logged. As stated below under *Claim Rejections - 35 USC § 112*, the recitations "potential successes" and "potential failures" render the claim indefinite. Further, if the recitations are interpreted as "possible successes" and "possible failures" as defined in the specification, certain successes are a subset of possible successes. As such, since Claim 4 requires logging of certain successes and Claim 7 requires that potential successes, which include certain successes, are not logged, Claim 7 is not further limiting on Claim 4.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 2, 3, 6 and 7 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The terms "potential success" and "potential failure" in the claims are not defined in the claims or in the specification and are not terms of art. As such, one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. The specification defines the terms "possible success" and "possible failure" on page 9, lines 7

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through 12. In order to advance prosecution to the maximum degree possible, examiner makes prior art rejections below based on the interpretation that the terms "potential success" and "potential failure" are intended as "possible success" and "possible failure" as defined in the specification.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 1 through 11 and 13 through 20 are rejected under 35 U.S.C. 102(e) as being anticipated by Burke et al. (US Patent 6,597,785).

6. Regarding Claim 1, Burke discloses an automatic dialer that determines a correct dialing procedure (i.e., sequence) (column 2, lines 53-60) using steps of: selecting (i.e., retrieving) a telephone number (Fig. 2, step 210; column 4, lines 41-43) in an ICLIP standard (i.e., predetermined) format (column 2, lines 14-17); determining an algorithm (i.e., potentially operable dialing sequence) from a look up table (i.e., predetermined set of dialing sequences) (Fig. 2, step 230; column 4, lines 57-65); dialing the selected number using the algorithm (i.e., the sequence) (Fig. 2, step 240; column 4, lines 65-67) and determining whether the call completes (i.e., monitoring progress) (Fig. 2, step 250; column 5, lines 43-45); updating the association record in the look up table (i.e., storing the results) (Fig. 2, step 270; column 5, lines

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46-52); and repeating dialing with the updated association record (i.e., using the results to determine the next dialing sequence).

7. Regarding Claim 2, Burke further discloses updating the association record to a different algorithm based on whether an intercept has been received indicating that the call could not be completed as dialed (i.e., the result of a selected dialing sequence is classified and logged as a potential failure) (column 5, lines 43-45).

8. Regarding Claim 3, Burke further discloses updating the association record to a different algorithm based on whether a wrong number was dialed (i.e., the result of a selected dialing sequence is classified and logged as a potential success) (column 5, lines 43-45).

9. Regarding Claim 4, Burke further discloses the association record remaining updated to a correct algorithm following achievement of a completed call (i.e., the result of a selected dialing sequence is classified and logged as a certain success) (column 5, lines 53-57).

10. Regarding Claim 5, Burke further discloses the association record remaining updated to a correct algorithm when the user goes on hook following achievement of a completed call (i.e., a response from a person is classified and logged as a certain success) (column 5, lines 53-57).

11. Regarding Claim 6, Burke further discloses the use of identification of the algorithm as correct or incorrect (i.e., recorded call potential failures and recorded call potential successes) (column 5, lines 50-53) and achievement of a completed call (i.e., recorded call certain successes) (column 5, lines 53-57) in the analysis for determining the updated association record (i.e., the next dialing sequence to use in subsequent attempts).

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12. Regarding Claim 7, as shown above under Claim Objections, Claim 7 is not further limiting on Claim 4. As such, Claim 7 is rejected for the reasons stated above apropos of Claim 4.

13. Regarding Claim 8, Burke further discloses the use of a look up table (i.e., subset or superset of information) (Fig. 1, reference 130; column 5, lines 60-65) and the configuration thereof to conserve memory space (i.e., improving compactness of code) (column 5, lines 58-59).

14. Regarding Claim 9, Burke further discloses the look up table remaining updated with the algorithm that resulted in the completed call (i.e., resulting success is permanently recorded as the correct sequence) (column 5, lines 53-57).

15. Regarding Claim 10, Burke further discloses the method being hosted on a processor or a telephone or a telephone system (column 3, lines 53-67).

16. Regarding Claim 11, Burke further discloses the method being applied to wired (i.e., landline) and digital communication systems (column 4, lines 5-15).

17. Regarding Claim 13, Burke further discloses the method using the least widely used algorithm index (i.e., resetting the area code and exchange statistics) if all of the more widely used algorithms result in intercept errors or wrong number (i.e., upon detection of several failures on a previously successful sequence) (column 6, lines 18-20).

18. Regarding Claim 14, Burke further discloses the method first updating the look up table with the most widely used algorithm index (i.e., steering the algorithm to use a particular sequence before any other) (column 6, lines 18-20).

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19. Regarding Claim 15, Burke further discloses the method determining the most widely used algorithm index (i.e., more than one certainly successful sequence is used to collect statistics on sequence validity) (column 6, lines 18-20).

20. Regarding Claim 16, Burke further discloses using the look up table when the NPA exists in table (i.e., when the area code of the attempted number matches a user input area code, the algorithm is used) and a default algorithm code for a new NPA (i.e., when they do not match a standard sequence is used) (column 5, line 62 through column 6, line 3).

21. Regarding Claim 17, Burke further discloses the method recognizing neighboring NPA's and using a separate look up table for those codes (i.e., certain area codes and exchanges are set manually) (column 6, lines 45-48).

22. Regarding Claim 18, Burke further discloses the method being hosted on a processor or a telephone or a telephone system (column 3, lines 53-67).

23. Regarding Claim 19, Burke further discloses the processor recognizing user input indicating incorrect calling procedure (i.e., user assists in declaring success or failure) (column 5, lines 43-50).

24. Regarding Claim 20, Burke further discloses the communication is analog or digital telephone (i.e., voice or data) (column 4, lines 1-15).

Claim Rejections - 35 USC § 103

25. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person

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having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

26. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Burke in view of Simpson et al. (US Patent 6,580,789).

27. Regarding Claim 12, as shown above apropos of Claim 1, Burke anticipates all elements except an alternate long distance service incorporated through a dialing prefix. Simpson discloses an automatic prefix dialing system that automatically inserts a prefix code for outgoing long distance calls (column 2, lines 49-52). Simpson further discloses that such a system provides flexibility and low cost to the subscriber (column 1, lines 16-17) without requiring action or assistance from the caller (column 1, lines 36-40). It would have been obvious to one skilled in the art at the time of the invention to apply prefix insertion as taught by Simpson to the dialer taught by Burke for the purpose of realizing the aforesaid advantages.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel Swerdlow whose telephone number is 571-272-7531. The examiner can normally be reached on Monday through Friday between 7:30 AM and 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sinh H. Tran can be reached on 571-272-7564. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Daniel Swerdlow
Examiner
Art Unit 2644

ds

18 April 2005